



COUNTY ROAD ASSOCIATION OF MICHIGAN

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Talking Points- HB 4251- Township Competitive Bidding

House Bill 4251, introduced by Rep. Kevin Cotter (R-Isabella), would amend the county road law in the following manner:

1. If a single township contributes 50 percent or more to the cost of a road project, the township board may pass a resolution requiring the road commission to contract for the work via competitive bidding. The road commission could submit a bid under this section.
2. If the township required competitive bidding the road commission would be required to: submit the process to be used to the township before accepting bids; and submit the final contract for the road project to the township board for approval. The road commission would be required to provide the township board with a copy of each competitive bid received for the project.

CRAM position:

CRAM has taken a position in opposition to this legislation.

Potential Impact to Road Commissions:

This legislation will increase administrative costs to road commissions and could significantly increase costs for townships. If road commissions are not allowed to utilize their own equipment and work force for routine maintenance, preservation and construction projects funded in part by townships, it could result in significant operational challenges, including layoffs, during the summer months.

Talking Points:

- While CRAM supports providing townships with input on the selection of mutually funded projects in townships, this legislation goes too far. Public Act 51 of 1951 prohibits local road agencies from expending more than 50 percent of the cost of a local road construction project from Michigan Transportation Fund (MTF) revenues. The wording of this legislation would allow for this consideration on **every** local road project (routine maintenance, preservation and construction/improvement) in the state when a township contributes 50 percent or more to the project.
- There is an increased cost associated with going through a competitive bid process. On local direct force projects that can easily be accomplished with the road commission's own engineering expertise, equipment, crew, and construction oversight this process is often seen as an unnecessary administrative cost. Requiring a competitive bid in these instances will increase administrative costs for both the road commission and the township if the road commission wins the bid. Otherwise, this administrative burden (design, special provisions, permits, bid advertisements, pre-bid meetings, construction oversight, financial services, etc...) is shouldered solely by the road commission leaving the road commission in violation of Public Act 51.
- This legislation does not address compensation for the road commission to cover the mandatory engineering specifications, inspections and oversight if an outside vendor is utilized. A road commission should be allowed to charge the township for pre and post project costs if an outside vendor/contractor is used.

- Road commissions and township project costs will increase because we will lose economy of scale that road commissions currently have when conducting bids. Currently road commissions bid for gravel, asphalt, crack sealing and other products or services on a county-wide basis. If projects are bid township by township, the costs will increase for all parties.
- It is not reasonable to allow this process to be utilized in emergency situations or when the safety of motorists could be at risk if a repair or project is not conducted immediately.
- Although the road commission is allowed to determine if a bidder is qualified, the language used in this section is not clear. There may be times when the lowest bidder does not meet the road commission's specifications for working with a vendor/contractor. The road commission is responsible for the short and long-term maintenance of the road, as well as any litigation that would result from either standard practices by the vendor or any damages caused to motorists or their property (vehicles). The road commission should have the final authority to approve or deny any bid, including denying the lowest bid.
- County road agency employees- your local road professionals- provide a highly specialized service that is necessary to the strength of Michigan's economy. In many areas of the state, county road agencies have purchased necessary equipment and provided specialized training to their crews because services either were not available in their area or were cost-prohibitive due to their distance from vendors. Just like a private enterprise, county road agencies weigh each decision against what is best for their customers and what makes the most fiscal sense on a county wide basis. If the road commission has the capability of doing a job as cost-effectively as another vendor, outsourcing the job will only change who is on the unemployment line, and increase the road commission's administrative expenses with regard to unemployment insurance.
- The bill as drafted is in direct conflict with numerous existing statutes which establish the powers and duties of boards of county road commissions and could end up the subject of litigation. The bill would vest in a township the power to determine when county road projects are to be required (by the board of road commissioners), what bidding process is to be used (by the board), and which bidder is to be selected (by the board). This would remove from boards of road commissioners, their legitimate discretionary authority and duty to determine the appropriate methods for having road work performed on roads under their jurisdiction and for which they are responsible; and in situations involving bid solicitation, to determine and select the lowest responsible bidder. This bill would preclude boards of road commissioners from exercising their discretion regarding the above referenced matters, while leaving them subject to potential liability which could result from such decisions; while the townships, which in fact made the questioned decisions, would be without any liability exposure for its decisions. Further, the bill is sufficiently vague (as in its reference to road projects) as to allow for conflicting interpretations of its provisions. It appears very likely that passage of this bill would result in significant litigation.